

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of:
January 7, 2021

<input type="checkbox"/>	Consent Agenda Item
<input checked="" type="checkbox"/>	Continued Hearing Item
<input type="checkbox"/>	Public Hearing Item
<input type="checkbox"/>	Department Report
<input type="checkbox"/>	Old Business

Re: Public Hearing on the Industrial Hemp Land Use Ordinance;

Record Number: PLN-2019-15590
Assessor Parcel Number: Various

Attached for the Planning Commission's record and review is the following supplementary information item:

1. Comments from the California Coastal Commission received 1/4/2021 and staff responses.

Comments from the California Coastal Commission received 1/4/2021

From: Kraemer, Melissa@Coastal <Melissa.Kraemer@coastal.ca.gov>

Sent: Monday, January 4, 2021 5:57 PM

To: Ford, John <JFord@co.humboldt.ca.us>

Cc: Richardson, Michael <MRichardson@co.humboldt.ca.us>; Adler, Elanah <EAdler@co.humboldt.ca.us>

Subject: initial comments on coastal industrial hemp ordinance

Hello All

We noticed this item on the upcoming Planning Commission agenda, took a quick look and offer the following initial comments and thoughts. This may not raise any significant coastal resource issues, but to enable processing it as quickly as possible and ideally with no suggested modifications, we have some initial ideas and questions for your consideration...

1. To qualify for de minimis processing, an LCP amendment has to be consistent with the Chapter 3 policies of the Coastal Act, raise no coastal resource impacts/issues, not result in any change in use of land or water, and not change the allowable use of property. (Plus there are various noticing requirements that have to be followed to qualify). In thinking about whether this could meet those standards, here are some initial thoughts:
 - Consider whether adding the use to allow it to be grown on the College of the Redwoods property represents a “change in use.” We could see an argument being made for no change in use (e.g., it’s just another type of educational use), but this would need to be flushed out, plus see the potential nonconformity issue raised below).
 - Also consider whether prohibiting the cultivation of a crop that otherwise would be allowed to be cultivated on agricultural lands raises any change in use issue or potential agricultural impact.
2. Another “streamlined” process we might consider is the “minor” amendment process. To qualify as such, we’d have to find that the amendment makes an existing use more specific, does not change the kind, location, intensity, or density of use, and the amendment must be consistent with the certified coastal land use plans.
 - At this point we’re not sure if this would fit this process, but keep those standards in mind with your application.
 - In thinking about whether the proposed zoning code changes are consistent with the coastal land use plans, consider whether there is a need to amend the six coastal land use plans to prohibit hemp cultivation on ag lands. Currently, each of the LUPs include various agricultural land use designations, each of which allow for the “production of food, fiber, and plants” as principally permitted. Since hemp falls into that category, is there a need to add any policy changes to the LUPs to enact this prohibition?

If this doesn’t qualify as either de minimis or minor, we’d have to process it as a “major” amendment. Ultimately given how relatively simple the amendment is, the timeline may or may not vary much with process.

3. Under the proposed amendment, hemp cultivation would be allowed with a special permit on one specific property (College of the Redwoods, or CR). As such, consideration is required for what uses are allowed on that property, which is designated PF under the HBAP and PF-2 zoning district. Allowing this crop to be grown at CR for research and education purposes on its face seems like it wouldn't raise any issue. However, is the CR facility considered a legal non-conforming use in the PF-2 zoning district, and if so, does that raise any issues with the County's ability to issue a Special Permit for this use in the future?
 - The PF designated includes "schools" as a principal use, but it's less clear what use type covers "colleges." Looking at the use type descriptions in the zoning code, does the County consider colleges to fall under the "Cultural, Non-Assembly" use type? If so, this use type is not allowed in the PF-2 zoning district like it is in the PF-1 zoning district, for some reason...

171.3 Cultural, Non-Assembly. The Non-Assembly Cultural Use Type includes the activities typically performed by the following institutions: (Former Section CZ#A313-6(E))

171.3.1 Public, parochial, and private non-profit museums and art galleries and similar organizations; (Former Section CZ#A313-6(E)(1))

171.3.2 Public, parochial, and private non-profit libraries and observatories and similar institutions. (Former Section CZ#A313-6(E)(2))

The Essential Services use type, which is allowed in both the PF-1 and PF-2 zones, seems to describe every other type of school except colleges...

171.5 Essential Services. The Essential Services Use Type includes uses which are necessary to support principal development. Typical Essential Services uses include: (Former Section CZ#A313-6(B))

171.5.1 Fire and police stations; (Former Section CZ#A313-6(B)(1))

171.5.2 Ambulance services; (Former Section CZ#A313-6(B)(2))

171.5.3 Post offices, excluding major processing centers; (Former Section CZ#A313-

171.5.4 Dumpster sites, solid waste transfer stations, and road maintenance yards; (Former Section CZ#A313-6(B)(4))

171.5.5 Community wells, water storage tanks, and associated water treatment facilities. (Former Section CZ#A313-6(B)(5))

171.5.6 Public, parochial and private day-care centers, family day care centers, nursery schools, elementary, junior high, and high schools. (Former Section CZ#A313-6(B)(6); (Amended by Ord. 1842, Sec. 18, 8/16/88))

171.5.7 Public and parochial parks, playgrounds and playing fields. (Former Section CZ#A313-6(B)(7))

- If there is a non-conformance issue that needs to be resolved, one option might be to amend the Essential Services definition to include colleges, but if the County decides to go that route you'd need to consider how that definition change may affect all the PF-2 lands in the coastal zone (whether that raises any issues; it may not, but it'd need to be considered).

4. We're not sure that citing a webpage within the LCP text (in the coastal zoning regulations) to identify the specific property in the coastal zone where growing hemp is allowed is a good idea.

We're happy to further discuss this with you, perhaps at our next coordination meeting.

Melissa B. Kraemer *(she/her)*

North Coast District Supervisor
California Coastal Commission
1385 Eighth Street, Suite 130
Arcata CA 95521
(707) 826-8950 ext. 9
www.coastal.ca.gov

Staff responses to Coastal Commission comments

CCC Comment: "consider...whether adding the use to allow it to be grown on the College of the Redwoods property represents a "change in use."

Planning staff response: Allowing Industrial Hemp cultivation and research at the College of the Redwoods campus on Tompkins Hill Road (CR) would potentially involve converting an undeveloped portion of their property into agricultural production (hemp crops) for educational or research purposes. The impact is expected to be similar to allowing a commercial cannabis cultivation business on the property. The Planning Commission can be creative in how it approaches the allowance for Industrial Hemp cultivation at CR. When staff requested specific information describing the preferred allowance for cultivation of Industrial Hemp on their property, CR officials declined that invitation.

Probably the simplest approach would be to recommend modifying the proposed ordinance to require the Industrial Hemp cultivation and research at CR meet all the development standards of a commercial cannabis business (except the zoning of course). This could address all the potential Coastal Act issues at once since we worked those out with the Commission already. The Planning Commission could also choose to limit the size of the cultivation area. To comply with federal law, the minimum cultivation area is going to be at least 1/10th of an acre (4,356 square feet of cultivation area). The Planning Commission may want to consider limiting the maximum size of the cultivation area to one or two acres to enable an area of sufficient size to for education and research while limiting the potential impacts of the cultivation site on neighboring properties.

CCC Comment: "consider whether prohibiting the cultivation of a crop that otherwise would be allowed to be cultivated on agricultural lands raises any change in use issue or potential agricultural impact"

Planning staff response: This comment addresses the impacts of the ordinance on areas other than at the CR campus. Since hemp was not allowed as an agricultural crop when the coastal act was approved, continuing to not allow it through the proposed ordinance would maintain maximum consistency with the coastal act. Agricultural producers can continue to use their land as it has been used for all the years since the coastal act was approved in 1976. Planning staff has seen no evidence that would be a change of use. Planning staff has also seen no evidence that continuing to not allow industrial hemp cultivation through the proposed ordinance would impact agriculture since no agricultural operation in the unincorporated areas of the County presently cultivates industrial hemp. Any discussion of the impacts of prohibiting a potential future use would therefore be speculative.

CCC Comment: "In thinking about whether the proposed zoning code changes are consistent with the coastal land use plans, consider whether there is a need to amend the six coastal land use plans to prohibit hemp cultivation on ag lands. Currently, each of the LUPs include various agricultural land use designations, each of which allow for the "production of food, fiber, and plants" as principally permitted. Since hemp falls into that category, is there a need to add any policy changes to the LUPs to enact this prohibition?"

Planning staff response: Planning staff believes amendments to the County's six coastal plans are not needed for regulating industrial hemp cultivation because in practice and in its impacts, industrial hemp cultivation is very similar to commercial cannabis cultivation, and there appears to be no need to amend any of the County's coastal plans to assist with implementing our commercial cannabis ordinance. Having said that, it would be a simple task to add a prohibition of industrial hemp cultivation in the agricultural land uses of the County's coastal plans which the Planning Commission may want to consider.

CCC Comment: "As such, consideration is required for what uses are allowed on that property, which is designated PF under the HBAP and PF-2 zoning district. Allowing this crop to be grown at CR for research and education purposes on its face seems like it wouldn't raise any issue. However, is the CR facility considered a legal non-conforming use in the PF-2 zoning district, and if so, does that raise any issues with the County's ability to issue a Special Permit for this use in the future?"

Planning staff response: This question points to an issue that is bigger than just the cultivation of industrial hemp on the CR property. Looking at our zoning ordinance, colleges are not an enumerated use in any zone. The Humboldt Bay Area Plan (HBAP) that applies to the property also does not specifically allow colleges. This seems to be somewhat of an oversight, particularly since the HBAP includes in Section 3.22 text

describing planned improvements to the Humboldt Bay Municipal Water District extending from the College of the Redwoods to Beatrice Avenue.

The HBAP assigns the CR property a PF land use designation which allows schools as a principal use, including, it would seem, community colleges. Given this staff believes findings could be made for approval of an expansion of the facilities at CR under the provisions of the PF-2 zone that allow as a conditionally permitted use "Any use not specifically enumerated in this Division, if it is similar to and compatible with the uses permitted in the PF2 zone". CR has characteristics that are similar to high schools, churches, lodges, public meeting halls and public recreation centers, all of which are principally permitted in the PF2 zone. To avoid requiring CR obtain both a Special Permit and Conditional Use Permit for the same activity (cultivation of Industrial Hemp), staff recommends the proposed ordinance be revised to require a Conditional Use Permit for Industrial Hemp Cultivation at the CR campus on Tompkins Hill Road.

An alternative for the Commission's consideration is to modify the zoning regulations and HBAP to specifically identify CR as an allowed use on their property. Planning staff does not recommend this alternative as there is a comprehensive update of the HBAP currently underway which is a more appropriate venue for considering this change to the zoning regulations. Staff has added that issue to the list of amendments being considered in the comprehensive update of the HBAP.

CCC Comment: "If there is a non-conformance issue that needs to be resolved, one option might be to amend the Essential Services definition to include colleges, but if the County decides to go that route you'd need to consider how that definition change may affect all the PF-2 lands in the coastal zone (whether that raises any issues; it may not, but it'd need to be considered)."

Planning staff response: See above response.

CCC Comment: "We're not sure that citing a webpage within the LCP text (in the coastal zoning regulations) to identify the specific property in the coastal zone where growing hemp is allowed is a good idea."

Planning staff response: Planning staff is recommending this approach because the shapefile used for the layer in our webGIS is a permanent record that can easily be reproduced. However, it is a different approach than what we've done in the past. The Planning Commission may want to consider including in the ordinance a map showing the CR parcels that may be used for cultivating industrial hemp. Planning staff recommends against inserting a metes and bounds description for the properties into the ordinance as that approach would needlessly consume several pages of text in the County's zoning ordinance.